

***Commonwealth of Massachusetts
Department of Public Safety
Board of Building Regulations and Standards***

***Home Improvement Contractor
Registration Program***



***Information on the HIC Program
and the Complaint Process***

This brochure is intended to give consumers a brief overview of the Home Improvement Contractor Registration Program and the options available when filing a complaint against a registered contractor. Please read the information thoroughly.

About the Program:

In 1992, the Massachusetts Home Improvement Contractor Law ([M.G.L. c. 142A](#)) was created to protect consumers and regulate the practices of home improvement contractors.

The law establishes a contractor registration requirement, an arbitration program for resolving disputes between homeowners and registered contractors and creates a Guaranty Fund to compensate consumers up to \$10,000 for unpaid judgments against registered home improvement contractors.

The [Board of Building Regulations and Standards](#) (BBRS) administers the registration component of the program, and the [Office of Consumer Affairs and Business Regulation](#) (OCABR) oversees the arbitration services and Guaranty Fund.

The Home Improvement Contractor Law establishes specific rules that home improvement contractors must follow. A contractor's failure to comply with the requirements jeopardizes the contractor's registration certificate, and may subject him or her to administrative penalties and civil fines, as well as criminal penalties.

Who must register?

All persons, individuals, proprietorships, partnerships, corporations who solicit, bid on, or perform residential contracting as a contractor or subcontractor on an existing one-to-four unit owner-occupied residential building in Massachusetts.

What kind of work is covered?

Residential contracting is defined as: "the reconstruction, alteration, renovation, repair, modernization, conversion, improvement, removal, demolition or construction of an addition to any pre-existing building containing at least one but not more than four dwelling units, which building thereof is used or designed to be used as a residence or dwelling unit, or to structures which are adjacent to such residence or building."

Who is exempt from registration?

- ? Workers who work for a contractor or subcontractor for a wage.
- ? All licensed professionals or tradesmen who take an exam as a condition of their licensure when they are working within the scope of their license, such as architects, electricians, plumbers but NOT construction supervisors licensed by the BBRS.
- ? The Commonwealth or its subdivisions.
- ? Schools offering vocational education courses or training in home construction or improvement.
- ? Owners doing their own renovations.
- ? Persons who perform any bona-fide single job costing \$500.00 (five hundred dollars) or under.
- ? Part time contractors or subcontractors whose gross revenue in the previous 12 months was less than \$5,000
- ? Persons enrolled as full time students for last and next academic term and 2/3 of whose employees are so enrolled and whose gross revenue is anticipated to be or has been under \$5,000.
- ? Persons who install central heating, A/C systems, energy conservation devices, provide conservation services on behalf of a public utility, landscaping, interior painting, paper hanging, finished floor covering, tile, fencing, free standing masonry walls, above-ground swimming pools, shutters, awnings, patios, driveways.

***Prohibited acts by a registered contractor in accordance with
MGL Chapter 142A:***

- ? Operating without a certificate of registration issued by the administrator;
- ? Abandoning or failing to perform, without justification, any contract or project engaged in or undertaken by a registered contractor or subcontractor, or deviating from or disregarding plans or specifications in any material respect without the consent of the owner;
- ? Failing to credit to the owner any payment they have made to the contractor or his salesperson in connection with a residential contracting transaction;
- ? Making any material misrepresentation in the procurement of a contract or making any false promise of a character likely to influence, persuade or induce the procurement of a contract;
- ? Knowingly contracting beyond the scope of the registration as a contractor or subcontractor;
- ? Acting directly, regardless of the receipt or the expectation of receipt of compensation or gain from the mortgage lender, in connection with a residential contracting transaction by preparing, offering or negotiating or attempting to or agreeing to prepare, arrange, offer or negotiate a mortgage loan on behalf of a mortgage lender;
- ? Acting as a mortgage broker or agent for any mortgage lender;
- ? Publishing, directly or indirectly, any advertisement relating to home construction or home improvements which does not contain the contractor's or subcontractor's certificate of registration number or which does contain an assertion, representation or statement of fact which is false, deceptive, or misleading;
- ? Advertising in any manner that a registrant is registered under this chapter unless the advertisement includes an accurate reference to the contractor's or subcontractor's certificate of registration;
- ? Violation of the building laws of the commonwealth or of any political subdivision thereof;

- ? Misrepresenting a material fact by an applicant in obtaining a certificate of registration;
- ? Failing to notify the administrator of any change of trade name or address as required by section thirteen;
- ? Conducting a residential contracting business in any name other than the one in which the contractor or subcontractor is registered;
- ? Failing to pay for materials or services rendered in connection with his operating as a contractor or subcontractor where he has received sufficient funds as payment for the particular construction work, project or operation for which the services or materials were rendered or purchased;
- ? Failing to comply with any order, demand or requirement lawfully made by the administrator or fund administrator under and within the authority of this chapter;
- ? Demanding or receiving payment in violation of clause (6) of paragraph (a) of section two which states: "a time schedule of payments to be made under said contract and the amount of each payment stated in dollars, including all finance charges. Any deposit required under the contract to be paid in advance of the commencement of work under said contract shall not exceed the greater of one-third of the total contract price or the actual cost of any materials or equipment of a special order or custom made nature, which must be ordered in advance of the commencement of work, in order to assure that the project will proceed on schedule. No final payment shall be demanded until the contract is completed to the satisfaction of the parties thereto;"
- ? Violating any other provision of chapter 142A.

What to do When You Have a Problem

When things go wrong because of poor or incomplete work, contract disputes, cost overruns, improper materials, or other home improvement problems that you cannot resolve with your contractor, you have several options available for help:

Mediation Services:

The Attorney General's Office and your local consumer groups have well-trained and experienced mediators who may be able to help you and the contractor resolve disputes without any additional cost to you.

For information and to see if you qualify for mediation, call the Attorney General's Consumer Complaint and Information Section at (617) 727-8400.

Arbitration, Court Action, and the Home Improvement Guaranty Fund

Arbitration:

If you hired a **registered** home improvement contractor you may be able to submit your dispute to a neutral arbitrator through the State Arbitration Program through the Office of Consumer Affairs & Business Regulation.

In this arbitration program, the homeowner and the contractor will present evidence and testimony to an impartial person, often referred to as a neutral or an arbitrator. The arbitrator will resolve the dispute by issuing a legally binding decision.

A registered home improvement contractor, by law, automatically consents to arbitration by entering into contracts with homeowners for residential contracting on a 1-4 unit, owner occupied dwelling.

Your decision to seek arbitration through the Massachusetts Home Improvement Contractor Arbitration Program should be based on whether you *qualify* for arbitration, whether arbitration is an effective method of pursuing your claim, and whether you objectively have sufficient evidence to support your case. Before you proceed, you should make the following determinations:

Review the following questions in order to determine whether or not you qualify for arbitration.

- ? Is there a written contract for the job? _____
- ? Will this *Request for Arbitration* be filed within 2 years of the contract date? _____
- ? Was the contractor registered with the state as a Home Improvement Contractor on the date the contract was signed? _____
- ? Was the contract for improvements, repairs, renovations, alterations, or additions to a preexisting owner-occupied residence with no more than 4 units? _____
- ? Is the property or residence located in Massachusetts? _____
- ? Is the property your primary residence? _____

If the answer to any of the above questions is no, you do not meet the basic qualifications for the Home Improvement Contractor Arbitration Program. You may want to consult an attorney to explore other legal remedies for your claim. *Note: If you obtained your own building permit you may be eligible for arbitration (provided you satisfy the qualifications above), but may not be eligible for payment from the Guaranty Fund.*

Even if you do qualify, is the Home Improvement Contractor Arbitration Program the most effective way for you to pursue your claim?

The Massachusetts Home Improvement Contractor Act establishes two means by which you may recover your damages: arbitration or a traditional suit in court. You should carefully weigh the costs of pursuing your claim through arbitration versus the costs of pursuing a claim in court.

Court Action

You may pursue your claim through the court system. For claims under \$2,000, small claims court is the least costly alternative. Consumer Affairs publishes a [Consumer's Guide to Small Claims Court](#), available upon request. Larger claims may be more suitable to District or Superior Court. You should seek legal advice for all claims.

The Guaranty Fund:

The Home Improvement Contractor Act establishes a Guaranty Fund to compensate consumers up to \$10,000 for unpaid judgments against registered home improvement contractors. The Guaranty Fund is supported by a one time fee that contractors are required to pay at the time of registration.

After a consumer is paid from the Guaranty Fund, the responsible registered contractor is obligated to reimburse the Fund with interest within 30 days. Failure to repay the Fund may result in administrative fines, revocation of the contractor's registration, and in extreme cases, criminal prosecution.

The Arbitration Program and the Guaranty Fund are managed by the Office of Consumer Affairs and Business Regulations. A comprehensive Website on the program is available at: www.state.ma.us/consumer/Info/const.htm

For further information on filing a consumer complaint against a registered contractor, please consult the above website, or call the Consumer Hotline at (617)-973-8787 or toll free (888)-283-3757.

Action Against the Contractor's Registration

The Board of Building Regulations may take action against a contractor's registration as a result of complaints filed with Consumer Affairs, or filed directly with the Board by a consumer. These actions may include a written reprimand,

suspension, or revocation of the contractor's registration; and may also include administrative penalties which must be paid to the Guaranty Fund.

The Office of Consumer Affairs generally forwards copies of consumer complaints to the Board of Building Regulations for action. If you choose to send a complaint directly to the Board of Building Regulations, please use the form provided with this pamphlet. **Complaints are subject to agency review. Submission of a complaint will not automatically result in a hearing against the contractor's registration.**

Registration Information

Please call the Department of Public Safety/BBRS to verify a contractor's registration information. The phone number is (508)-821-9375. You may also check the following website: <http://www.state.ma.us/bbrs/Hicsearch.htm>

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***Commonwealth of Massachusetts
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Please address correspondence to:

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Attn: Program Coordinator

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